

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,371,872	
First Applicant:	Eric David Moher	
Issue Date:	May 13, 2008	
Serial No.:	10/516,559	
Filing Date:	November 30, 2004	
For:	Prodrugs of Excitatory Amino Acids	
Docket No.:	X-14978M	Confirmation No. 7051

PETITION TO THE DIRECTOR UNDER 37 C.F.R. §1.181 TO REVIEW THE DECISION
ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Introductory Comments

This petition to the Director pursuant to 37 C.F.R. §1.181 pertains to the Decision on Request for Reconsideration of Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction mailed by the Office of Petitions on September 19, 2008. Patentees submit the following Statement of the Facts, Points to be Reviewed, Exhibits, Actions Requested, and Fee Payment Authorization along with this petition.

Statement of the Facts

- 1) On May 13, 2008, the above-identified application matured into U.S. Patent No. 7,371,872. The patent issued with a revised Patent Term Adjustment of three hundred thirty-one (331) days. Prior to issuance, the patent term adjustment for the above-identified patent was set at three hundred eighty-one (381) days.
- 2) A Request for Reconsideration of Patent Term Adjustment was timely filed on July 14, 2008, within two (2) months of the date the patent issued. See 37 C.F.R. §1.705(d).
- 3) Patentees specified in the Request for Reconsideration of Patent Term Adjustment

that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application as set forth in 37 C.F.R. §1.704.

- 4) Patentees requested reconsideration of patent term adjustment and reinstatement of all the reduced term for the above-identified patent. Reinstatement of all the reduced term would set the patent term adjustment for the above-identified patent at three hundred eighty-one (381) days.
- 5) The reduction of patent term adjustment involved forty-four (44) days associated with the filing of the “Communication” received in the USPTO on March 31, 2008 and six (6) days based upon the filing of the Certified Copy of the Foreign Priority Application on March 25, 2008.
- 6) The Office of Patent Legal Administration at the USPTO concluded that the reduction of forty-four (44) days associated with the filing of the “Communication” received in the USPTO on March 31, 2008 was not warranted. The reduction was removed.
- 7) The Office of Patent Legal Administration at the USPTO concluded that a reduction of the period of patent term adjustment was warranted as to the filing of the Certified Copy of the Foreign Priority Application.
- 8) The Office of Patent Legal Administration cited 37 C.F.R. §1.704(c)(10) regarding the reduction noted in Fact 7.
- 9) Regarding the reduction noted in Fact 7, the Office of Patent Legal Administration stated that “[i]n this instance, it is undisputed that patentees filed the Certified Copy of the Foreign Priority Application after the mailing of the notice of allowance. On April 4, 2008, the Office mailed a Priority Acknowledgement, acknowledging receipt of the priority papers. Thus, the period of adjustment should have been reduced by the lesser period of eleven (11) days (not 6 days), beginning on the date the Certified Copy of the Foreign Priority Application was filed, March 25, 2008, and ending on the mailing date of the Priority Acknowledgement, April 4, 2008. Accordingly, the period of reduction of six (6) days will be removed and the period of reduction of eleven (11) days will be entered in its place.”
- 10) Patentees agree that certified copies of the foreign priority applications (EP Priority Documents for Application No. 02380120.2 -1211 and Application No. 02380121.0 -1211) were supplied to the USPTO pursuant to the Notice of

Allowability, No. 3(c)(1) on March 25, 2008. However, this was the second time applicants had to supply copies of these documents, after having properly submitted the priority documents to the U.S. Receiving Office (USRO) at the time of filing the PCT application.

- 11) Thus, Patentees note that the USRO previously had been supplied with paper copies of these same documents on June 6, 2003. According to the treaty, the USRO should have then sent the priority documents to WIPO. For some reason, the USRO did not do so.
- 12) Patentees further note that pursuant to Paragraph 99 of the PCT Applicant's Guide – International Phase, “[p]rovided the applicant has either furnished a certified copy or requested transmittal of a copy and paid the necessary fee as described above, no designated Office may ask the applicant himself to furnish a certified copy of the earlier application.” In view of Fact 11 and Paragraph 99 of the PCT Applicant's Guide – International Phase, the USPTO could not ask Patentees to furnish the above-identified copies of the foreign priority applications.
- 13) Patentees submit that the International Bureau (IB) via a Notification Concerning Submission or Transmittal of Priority Document mailed on July 9, 2003 notified Patentees that the IB had not received the above-identified copies of the foreign priority applications as shown by the letters “NR” in the right-hand column entitled “Date of receipt of priority document” on the above-identified Notification.
- 14) According to the above-identified notification, “[t]he letters "NR" appearing in the right-hand column denote a priority document which was not received by the International Bureau or which the applicant did not request the receiving Office to prepare and transmit to the International Bureau, as provided by Rule 17.1 (a) or (b), respectively. In such a case, the attention of the applicant is directed to Rule 17.1 (c) which provides that no designated Office may disregard the priority claim concerned before giving the applicant an opportunity, upon entry into the national phase, to furnish the priority document within a time limit which is reasonable under the circumstances.”
- 15) In view of this notice, and because Patentees had indeed supplied the above-identified copies of the foreign priority applications with the original filing, it was not deemed necessary to provide yet another copy of these documents. This is particularly so, since in Patentees experience, delays in the USRO supplying priority documents to the IB were fairly common.

- 16) On February 15, 2007, the USPTO acknowledged a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f) as well as receipt of all certified copies of the priority documents in the National Stage application from the IB (PCT Rule 17.2(a)) in the Office Action Summary supplied with the Restriction Requirement. Hence, Patentees believed that the USPTO had indeed received the above-identified copies of the foreign priority applications.
- 17) Prior to the Notice of Allowability, Patentees had not been notified by the USPTO to supply the above-identified copies of the foreign priority applications.
- 18) Patentees supplied the above-identified copies of the foreign priority applications to the USPTO upon notification by the USPTO and prior to payment of the issue fee for the above-identified patent. As a courtesy to hasten prosecution, Patentees supplied a second copy of the above-identified foreign priority applications.
- 19) After receiving the Decision on Request for Reconsideration of Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction, the International Application file for this patent was ordered at the USPTO. Upon receiving the file for the International Application on October 6, 2008, the above-identified copies of the foreign priority applications were still located therein. The documents had a note appended to them indicating that they should be forwarded. At that time, the above-identified copies of the foreign priority applications were apparently planned to be submitted to the IB.

Points to be Reviewed

Patentees respectfully request that the Director review, reconsider, and invoke supervisory authority upon the following points:

- 1) the period of reduction of eleven (11) days as provided in the Decision on Request for Reconsideration of Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction and
- 2) the certificate of correction showing a revised Patent Term Adjustment of three hundred seventy (370) days.

Exhibits

Patentees supply the following exhibits in support of the Statement of Facts, particularly Facts 11, 13, 14, and 16:

- 1) a copy of the electronic PCT Request printed on June 5, 2003 and papers related to this

Request showing the paper copies of the above-identified foreign priority applications were included with the PCT application provided to the U.S. Receiving Office for the PCT,

- 2) a copy of the postcard stamped by the U.S. Receiving Office for the PCT showing receipt of the above-identified foreign priority applications on June 6, 2003,
- 3) a copy of the Notification Concerning Submission or Transmittal of Priority Document mailed on July 9, 2003, and
- 4) a copy of the Office Action Summary mailed on February 15, 2007 by the USPTO acknowledging a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f) as well as receipt of all certified copies of the priority documents in the National Stage application from the IB (PCT Rule 17.2(a)).

Actions Requested

Patentees respectfully request that the Director invoke the following actions:

- 1) removal of the period of reduction of eleven (11) days as provided in the Decision on Request for Reconsideration of Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction and
- 2) revision of the certificate of correction such that the revised Patent Term Adjustment is set at three hundred eighty-one (381) days.

Fee Payment Authorization

Pursuant to 37 C.F.R. §1.181(d), Patentees hereby authorize payment of any fee required for this petition to the Director. Please charge any fees in connection with this petition to Deposit Account No. 05-0840.

Respectfully submitted,

/Danica Hostettler/

Danica Hostettler
Attorney for Patentees
Registration No. 51,820
Phone: 317.276.3711

Eli Lilly and Company
Patent Division
P.O. Box 6288
Indianapolis, Indiana 46206-6288

October 10, 2008

Patent Division
Lilly Corporate Center
Indianapolis, IN 46285 U.S.A.
Telephone 317 276 3425
Telecopier 317 276 3861

June 5, 2003

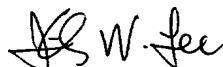
Ms. Pat Paxton
Landon Stark Cantwell and Paxton
2011 Crystal Drive – Suite 210
Arlington, VA 22202

Dear Ms. Paxton:

Enclosed herewith is a PCT application titled **PRODRUGS OF EXCITATORY AMINO ACIDS**, our reference number **X14978M**, which we would like you to hand carry to the PCT United States Receiving Office (USRO).

Please have the USRO stamp the enclosed postcard with the international serial number and filing date. Please also fax the postcard to us at **317-276-3861**. We would also like you to send us the original of the postcard by regular mail. Thank you.

Sincerely,



Kirby W. Lee
Patent Agent

Enclosures

Patent Division
Lilly Corporate Center
Indianapolis, IN 46285 U.S.A.
Telephone 317 276 3425
Telecopier 317 276 3861

PCT INTERNATIONAL APPLICATION COVER LETTER

Regarding the International Application of:

Docket or Reference Number: **Docket No. X14978M**

Applicant(s): **ELI LILLY AND COMPANY, MOHER, Eric, et al.**

Entitled: **PRODRUGS OF EXCITATORY AMINO ACIDS**

To the United States Receiving Office (RO/US):

Accompanying this cover letter is the above-identified International application, including a completed Request form PCT/RO/101 and Fee Sheet. Please process the application according to the provisions of the Patent Cooperation Treaty.

The following requests are made of the RO/US:

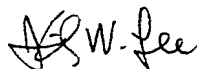
1. ☒ **PREPARATION AND TRANSMITTAL OF CERTIFIED COPY OF PRIORITY DOCUMENTS**
Please prepare and transmit to the International Bureau a certified copy of the United States origin priority documents identified in Box VI of the Request form (37 CFR 1.19 1.451).
To cover the cost of copy preparation and certification (37 CFR 1.19(a)(3) and (b)(1)).
☐ a (check) (money order) in the amount of \$ _____ is attached to this transmittal letter.
☒ the RO/US is hereby authorized to charge the following deposit account no.: **05-0840**

The appropriate Search fee for the above-named Authority is indicated on the Fee Calculation Sheet (PCT/RO/101 Annex).

2. ☐ **SUPPLEMENTAL SEARCH FEES (ONLY WHEN ISA/US CONDUCTS THE INTERNATIONAL SEARCH --Please charge any Supplemental Search fees that may be required by the United States International Searching Authority (ISA/US) to deposit account no.: **05-0840****

NOTE: SUPPLEMENTAL SEARCH FEES FOR ISA/EP ARE PAYABLE DIRECTLY TO THE EUROPEAN PATENT OFFICE

3. ☐ **REQUEST FOR FOREIGN TRANSMITTAL LICENSE -- According to the provisions of 35 U.S.C. 184 and 37CFR 5.11, a license to transmit the accompanying International application to foreign agencies or authorities is hereby requested.**



Kirby W. Lee, Patent Agent

Reg. No. 47,744

Date: June 5, 2003

PCT REQUEST

X14978M

Original (for SUBMISSION) - printed on 05.06.2003 12:17:00 PM

0	For receiving Office use only	
0-1	International Application No.	
0-2	International Filing Date	
0-3	Name of receiving Office and "PCT International Application"	
0-4	Form - PCT/RO/101 PCT Request	
0-4-1	Prepared using	PCT-EASY Version 2.92 (updated 01.04.2003)
0-5	Petition The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty	
0-6	Receiving Office (specified by the applicant)	United States Patent and Trademark Office (USPTO) (RO/US)
0-7	Applicant's or agent's file reference	X14978M
I	Title of invention	PRODRUGS OF EXCITATORY AMINO ACIDS
II	Applicant	
II-1	This person is:	applicant only
II-2	Applicant for	all designated States except US
II-4	Name	ELI LILLY AND COMPANY
II-5	Address:	Lilly Corporate Center Indianapolis, IN 46285 United States of America
II-6	State of nationality	US
II-7	State of residence	US
II-8	Telephone No.	317-277-1469
II-9	Facsimile No.	317-276-3861
III-1	Applicant and/or inventor	
III-1-1	This person is:	applicant and inventor
III-1-2	Applicant for	US only
III-1-4	Name (LAST, First)	MOHER, Eric, David
III-1-5	Address:	492 Oak Brook Lane Greenwood, IN 46142 United States of America
III-1-6	State of nationality	US
III-1-7	State of residence	US

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III-2	Applicant and/or inventor	
III-2-1	This person is:	applicant and inventor
III-2-2	Applicant for	US only
III-2-4	Name (LAST, First)	MONN, James, Allen
III-2-5	Address:	7518 Allenwood Court Indianapolis, IN 46268 United States of America
III-2-6	State of nationality	US
III-2-7	State of residence	US
III-3	Applicant and/or inventor	
III-3-1	This person is:	applicant and inventor
III-3-2	Applicant for	US only
III-3-4	Name (LAST, First)	PEDREGAL-TERCERO, Concepcion
III-3-5	Address:	Lilly, S. A. Avenida de la Industria 30 E-28100 Alcobendas Spain
III-3-6	State of nationality	ES
III-3-7	State of residence	ES
IV-1	Agent or common representative; or address for correspondence	
	The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:	agent
IV-1-1	Name (LAST, First)	LEE, Kirby, W.
IV-1-2	Address:	ELI LILLY AND COMPANY P. O. Box 6288 Indianapolis, IN 46206-6288 United States of America
IV-1-3	Telephone No.	317-277-1469
IV-1-4	Facsimile No.	317-276-3861
IV-1-5	Agent's registration No.	47,744
IV-2	Additional agent(s)	
IV-2-1	Name(s)	additional agent(s) with same address as first named agent LEEDS, James, P.(35,241)

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V	Designation of States	
V-1	Regional Patent (other kinds of protection or treatment, if any, are specified between parentheses after the designation(s) concerned)	<p>AP: GH GM KE LS MW MZ SD SL SZ TZ UG ZM ZW and any other State which is a Contracting State of the Harare Protocol and of the PCT</p> <p>EA: AM AZ BY KG KZ MD RU TJ TM and any other State which is a Contracting State of the Eurasian Patent Convention and of the PCT</p> <p>EP: AT BE BG CH&LI CY CZ DE DK EE ES FI FR GB GR HU IE IT LU MC NL PT RO SE SI SK TR and any other State which is a Contracting State of the European Patent Convention and of the PCT</p> <p>OA: BF BJ CF CG CI CM GA GN GQ GW ML MR NE SN TD TG and any other State which is a member State of OAPI and a Contracting State of the PCT</p>
V-2	National Patent (other kinds of protection or treatment, if any, are specified between parentheses after the designation(s) concerned)	<p>AE AG AL AM AT (patent and utility model) AU AZ BA BB BG BR BY BZ CA CH&LI CN CO CR CU CZ (patent and utility model) DE (patent and utility model) DK (patent and utility model) DM DZ EC EE (patent and utility model) ES FI (patent and utility model) GB GD GE GH GM HR HU ID IL IN IS JP KE KG KP KR KZ LC LK LR LS LT LU LV MA MD MG MK MN MW MX MZ NI NO NZ OM PH PL PT RO RU SC SD SE SG SK (patent and utility model) SL TJ TM TN TR TT TZ UA UG US UZ VC VN YU ZA ZM ZW</p>
V-5	Precautionary Designation Statement In addition to the designations made under items V-1, V-2 and V-3, the applicant also makes under Rule 4.9(b) all designations which would be permitted under the PCT except any designation(s) of the State(s) indicated under item V-6 below. The applicant declares that those additional designations are subject to confirmation and that any designation which is not confirmed before the expiration of 15 months from the priority date is to be regarded as withdrawn by the applicant at the expiration of that time limit.	
V-6	Exclusion(s) from precautionary designations	NONE

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VI-1	Priority claim of earlier regional application		
VI-1-1	Filing date	11 June 2002 (11.06.2002)	
VI-1-2	Number	02380120.2	
VI-1-3	Regional Office	EP	
VI-2	Priority claim of earlier regional application		
VI-2-1	Filing date	11 June 2002 (11.06.2002)	
VI-2-2	Number	02380121.0	
VI-2-3	Regional Office	EP	
VI-3	Priority claim of earlier national application		
VI-3-1	Filing date	03 October 2002 (03.10.2002)	
VI-3-2	Number	60/415,936	
VI-3-3	Country	US	
VI-4	Priority claim of earlier national application		
VI-4-1	Filing date	03 October 2002 (03.10.2002)	
VI-4-2	Number	60/415,937	
VI-4-3	Country	US	
VI-5	Priority document request		
	The receiving Office is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) identified above as item(s):	VI-3, VI-4	
VII-1	International Searching Authority Chosen	European Patent Office (EPO) (ISA/EP)	
VIII	Declarations	Number of declarations	
VIII-1	Declaration as to the identity of the inventor	-	
VIII-2	Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent	1	
VIII-3	Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application	2	
VIII-4	Declaration of inventorship (only for the purposes of the designation of the United States of America)	-	
VIII-5	Declaration as to non-prejudicial disclosures or exceptions to lack of novelty	-	

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VIII-2-1	Declaration: Entitlement to apply for and be granted a patent Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51bis.1(a)(ii)), in a case where the declaration under Rule 4.17(iv) is not appropriate: Name:	in relation to this international application ELI LILLY AND COMPANY is entitled to apply for and be granted a patent by virtue of the following:
VIII-2-1 (ii)		ELI LILLY AND COMPANY is entitled as employer of the inventor, MOHER, Eric, David
VIII-2-1 (ii)		ELI LILLY AND COMPANY is entitled as employer of the inventor, MONN, James, Allen
VIII-2-1 (ix)	This declaration is made for the purposes of:	all designations except the designation of the United States of America

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VIII-3-1	Declaration: Entitlement to claim priority Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application specified below, where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the filing of the earlier application (Rules 4.17(iii) and 51bis.1(a)(iii)): Name:	in relation to this international application ELI LILLY AND COMPANY is entitled to claim priority of earlier application No. 60/415,936 by virtue of the following:
VIII-3-1 (iv)		an assignment from MOHER, Eric, David to ELI LILLY AND COMPANY, dated 09 October 2002 (09.10.2002)
VIII-3-1 (iv)		an assignment from MONN, James, Allen to ELI LILLY AND COMPANY, dated 10 October 2002 (10.10.2002)
VIII-3-1 (iv)		an assignment from PEDREGAL-TERCERO, Concepcion to ELI LILLY AND COMPANY, dated 08 October 2002 (08.10.2002)
VIII-3-1 (ix)	This declaration is made for the purposes of:	AP: (GH GM KE LS MW MZ SD SL SZ TZ UG ZM ZW); EA: (AM AZ BY KG KZ MD RU TJ TM); EP: (AT BE BG CH&LI CY CZ DE DK EE ES FI FR GB GR HU IE IT LU MC NL PT RO SE SI SK TR); OA: (BF BJ CF CG CI CM GA GN GQ GW ML MR NE SN TD TG); AE AG AL AM AT AU AZ BA BB BG BR BY BZ CA CH&LI CN CO CR CU CZ DE DK DM DZ EC EE ES FI GB GD GE GH GM HR HU ID IL IN IS JP KE KG KP KR KZ LC LK LR LS LT LU LV MA MD MG MK MN MW MX MZ NI NO NZ OM PH PL PT RO RU SC SD SE SG SK SL TJ TM TN TR TT TZ UA UG UZ VC VN YU ZA ZM ZW

PCT REQUEST

X14978M

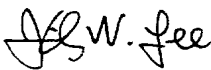
Original (for SUBMISSION) - printed on 05.06.2003 12:17:00 PM

VIII-3-2	Declaration: Entitlement to claim priority Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application specified below, where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the filing of the earlier application (Rules 4.17(iii) and 51bis.1(a)(iii)): Name.	in relation to this international application ELI LILLY AND COMPANY is entitled to claim priority of earlier application No. 60/415,937 by virtue of the following:
VIII-3-2 (iv)		an assignment from MOHER, Eric, David to ELI LILLY AND COMPANY, dated 09 October 2002 (09.10.2002)
VIII-3-2 (iv)		an assignment from MONN, James, Allen to ELI LILLY AND COMPANY, dated 10 October 2002 (10.10.2002)
VIII-3-2 (iv)		an assignment from PEDREGAL-TERCERO, Concepcion to ELI LILLY AND COMPANY, dated 08 October 2002 (08.10.2002)
VIII-3-2 (ix)	This declaration is made for the purposes of:	AP: (GH GM KE LS MW MZ SD SL SZ TZ UG ZM ZW); EA: (AM AZ BY KG KZ MD RU TJ TM); EP: (AT BE BG CH&LI CY CZ DE DK EE ES FI FR GB GR HU IE IT LU MC NL PT RO SE SI SK TR); OA: (BF BJ CF CG CI CM GA GN GQ GW ML MR NE SN TD TG); AE AG AL AM AT AU AZ BA BB BG BR BY BZ CA CH&LI CN CO CR CU CZ DE DK DM DZ EC EE ES FI GB GD GE GH GM HR HU ID IL IN IS JP KE KG KP KR KZ LC LK LR LS LT LU LV MA MD MG MK MN MW MX MZ NI NO NZ OM PH PL PT RO RU SC SD SE SG SK SL TJ TM TN TR TT TZ UA UG UZ VC VN YU ZA ZM ZW

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IX	Check list	number of sheets	electronic file(s) attached
IX-1	Request (including declaration sheets)	9	-
IX-2	Description	164	-
IX-3	Claims	7	-
IX-4	Abstract	1	EZABST00.TXT
IX-5	Drawings	0	-
IX-7	TOTAL	181	
	Accompanying items	paper document(s) attached	electronic file(s) attached
IX-8	Fee calculation sheet	✓	-
IX-11	Copy of general power of attorney	✓	-
IX-13	Priority document(s)	Item(s) VI-1, VI-2	-
IX-17	PCT-EASY diskette	-	Diskette
IX-18	Other (specified):	Return Receipt Postcard	-
IX-18	Other (specified):	PCT Cover Letter	-
IX-18	Other (specified):	PCT General Power of Attorney	-
IX-18	Other (specified):	Delegation of Authority	-
IX-19	Figure of the drawings which should accompany the abstract		
IX-20	Language of filing of the international application	English	
X-1	Signature of applicant, agent or common representative		
X-1-1	Name	ELI LILLY AND COMPANY	
X-1-2	Name of signatory	Kirby W. Lee	
X-1-3	Capacity	Patent Agent	

FOR RECEIVING OFFICE USE ONLY

10-1	Date of actual receipt of the purported international application	
10-2	Drawings:	
10-2-1	Received	
10-2-2	Not received	
10-3	Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application	
10-4	Date of timely receipt of the required corrections under PCT Article 11(2)	
10-5	International Searching Authority	ISA/EP
10-6	Transmittal of search copy delayed until search fee is paid	

PCT REQUEST

X14978M

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11-1	Date of receipt of the record copy by the International Bureau	
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PCT (ANNEX - FEE CALCULATION SHEET)

X14978M

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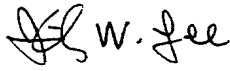
(This sheet is not part of and does not count as a sheet of the international application)

0	For receiving Office use only	
0-1	International Application No.	
0-2	Date stamp of the receiving Office	
0-4	Form - PCT/RO/101 (Annex)	
0-4-1	PCT Fee Calculation Sheet Prepared using	PCT-EASY Version 2.92 (updated 01.04.2003)
0-9	Applicant's or agent's file reference	X14978M
2	Applicant	ELI LILLY AND COMPANY, et al.
12	Calculation of prescribed fees	fee amount/multiplier Total amounts (USD)
12-1	Transmittal fee T	⇒ 240
12-2-1	Search fee S	⇒ 1,020
12-2-2	International search to be carried out by	EP
12-3	International fee	
	Basic fee (first 30 sheets) b1	476
12-4	Remaining sheets	151
12-5	Additional amount (X)	12
12-6	Total additional amount b2	1,812
12-7	b1 + b2 = B	2,288
12-8	Designation fees	
	Number of designations contained in international application	95
12-9	Number of designation fees payable (maximum 5)	5
12-10	Amount of designation fee (X)	104
12-11	Total designation fees D	520
12-12	PCT-EASY fee reduction R	-148
12-13	Total International fee (B+D-R) I	⇒ 2,660
12-14	Fee for priority document	
	Number of priority documents requested	2
12-15	Fee per document (X)	20
12-16	Total priority document fee P	⇒ 40
12-17	TOTAL FEES PAYABLE (T+S+I+P)	⇒ 3,960
12-19	Mode of payment	authorization to charge deposit account
12-20	Deposit account instructions	
	The receiving Office:	United States Patent and Trademark Office (USPTO) (RO/US)
12-20-1	Authorization to charge the total fees indicated above.	✓

PCT (ANNEX - FEE CALCULATION SHEET)

X14978M

Original (for **SUBMISSION**) - printed on 05.06.2003 12:17:00 PM

12-20-2	Authorization to charge any deficiency or credit any overpayment in the total fees indicated above.	✓
12-20-3	Authorization to charge the fee for priority document.	✓
12-21	Deposit account No.	05-0840
12-22	Date	05 June 2003 (05.06.2003)
12-23	Name and signature	Kirby W. Lee 

VALIDATION LOG AND REMARKS

13-2-7	Validation messages Contents	Green? The international application contains no drawings. Please verify.
		Green? Reference number for attached copy of general power of attorney not indicated.
13-2-9	Validation messages Payment	Green? Please ensure that you have a valid deposit account with the receiving Office selected.

Original (for **SUBMISSION**) - printed on 05.06.2003 12:17:00 PM**PCT-EASY INFORMATION SHEET**

(For applicant use only, DO NOT submit this sheet with the international application)

VALIDATION LOG

	Contents
Green?	The international application contains no drawings. Please verify.
Green?	Reference number for attached copy of general power of attorney not indicated.
	Payment
Green?	Please ensure that you have a valid deposit account with the receiving Office selected.

Before submitting the International Application, please carefully verify that:

- the information contained on printed Request form is correct;
- Box X of the Request form and item 12-23 of the Annex to the Request form have been signed;
- all elements of the international application as indicated in Boxes VIII and IX of the Request form have been attached; and,
- the diskette containing the PCT-EASY zip file of the International Application has been enclosed and has been clearly labeled "PCT-EASY", with the applicant's or agent's file reference, and the first applicant's name.

ATTENTION

DO NOT modify any indications on the Request form printout. The electronic version of the PCT-EASY application has been locked.

If an error or an omission is discovered at this time, you must reopen the stored form for submission, perform necessary amendments and immediately resubmit the form. Finally, a NEW submission diskette must be created manually by resending the corrected stored form to the diskette. The previously created printout and submission diskette must be destroyed in order to prevent the possibility of erroneously sending it to the RO.

Rec'd PCT/PTO 06 JUN 2003 9784 Att'y KWL/rs

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PCT Application of ELI LILLY AND COMPANY Eric David Moherd

Titled: PRODRUGS OF EXCITATORY
AMINO ACIDS

Consisting of PCT Intl. Application Transmittal Letter and:

Description (164), Claims (7), Abstract (1) pages, — sheets drawing

PCT Request 9 Power of Atty — General Power of Atty 7

Fee Calculation Sheet 2 Diskette 1 Sequence Listing —

Indications Relating to a Deposited Microorganism

Miscellaneous Papers:

Delegation of Authority
EP 02380120.2; EP 02389121.0

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PCT/US03/15405

PATENT COOPERATION TREATY

PCT

NOTIFICATION CONCERNING
SUBMISSION OR TRANSMITTAL
OF PRIORITY DOCUMENT

(PCT Administrative Instructions, Section 411)

From the INTERNATIONAL BUREAU

To:

T. Tucker
~~LEE, Kirby, W.~~

ELI LILLY AND COMPANY

P. O. Box 6288

Indianapolis, IN 46206-6288

United States of America

RECEIVED

ELI LILLY & COMPANY
PATENT DEPT

Date of mailing (day/month/year) 09 July 2003 (09.07.03)	IMPORTANT NOTIFICATION International filing date (day/month/year) 06 June 2003 (06.06.03) Priority date (day/month/year) 11 June 2002 (11.06.02)
Applicant's or agent's file reference X14978M	
International application No. PCT/US03/15405	
International publication date (day/month/year) Not yet published	
Applicant ELI LILLY AND COMPANY et al	

- The applicant is hereby notified of the date of receipt (except where the letters "NR" appear in the right-hand column) by the International Bureau of the priority document(s) relating to the earlier application(s) indicated below. Unless otherwise indicated by an asterisk appearing next to a date of receipt, or by the letters "NR", in the right-hand column, the priority document concerned was submitted or transmitted to the International Bureau in compliance with Rule 17.1(a) or (b).
- This updates and replaces any previously issued notification concerning submission or transmittal of priority documents.
- An **asterisk(*)** appearing next to a date of receipt, in the right-hand column, denotes a priority document submitted or transmitted to the International Bureau but not in compliance with Rule 17.1(a) or (b). In such a case, **the attention of the applicant is directed** to Rule 17.1(c) which provides that no designated Office may disregard the priority claim concerned before giving the applicant an opportunity, upon entry into the national phase, to furnish the priority document within a time limit which is reasonable under the circumstances.
- The **letters "NR"** appearing in the right-hand column denote a priority document which was not received by the International Bureau or which the applicant did not request the receiving Office to prepare and transmit to the International Bureau, as provided by Rule 17.1(a) or (b), respectively. In such a case, **the attention of the applicant is directed** to Rule 17.1(c) which provides that no designated Office may disregard the priority claim concerned before giving the applicant an opportunity, upon entry into the national phase, to furnish the priority document within a time limit which is reasonable under the circumstances.

<u>Priority date</u>	<u>Priority application No.</u>	<u>Country or regional Office or PCT receiving Office</u>	<u>Date of receipt of priority document</u>
11 June 2002 (11.06.02)	02380120.2	EP	NR
11 June 2002 (11.06.02)	02380121.0	EP	NR
03 Octo 2002 (03.10.02)	60/415,936	US	01 July 2003 (01.07.03)
03 Octo 2002 (03.10.02)	60/415,937	US	01 July 2003 (01.07.03)

The International Bureau of WIPO
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1211 Geneva 20, Switzerland

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,559	11/30/2004	Eric David Moher	X-14978M	7051
25885 7590 02/15/2007 ELI LILLY & COMPANY PATENT DIVISION P.O. BOX 6288 INDIANAPOLIS, IN 46206-6288			EXAMINER JARRELL, NOBLE E	
RECEIVED FEB 16 2007 ELI LILLY AND COMPANY			ART UNIT 1609	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
31 DAYS		02/15/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 31 DAYS from 02/15/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@lilly.com

Restriction 3-15-07

Office Action Summary	Application No.		Applicant(s)	
	10/516,559		MOHER ET AL.	
	Examiner		Art Unit	
	Noble Jarrell		1609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 38-74 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |